

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ANNIKEN PROSSER,

Plaintiffs,

v.

Case No. 20-cv-194

ALEX AZAR, in his capacity as Secretary
of the United States Department of Health
and Human Services,

Defendant.

PLAINTIFF'S NOTICE OF SUBSEQUENT EVENTS

As noted in Mrs. Prosser's opposition to the Secretary's motion to dismiss (Dkt. #37 at 1), the Secretary attempted to rely on the decision in *Pehoviack v. Azar*, Case No. 20-cv-661 (C.D. Cal. July 22, 2020) without disclosing that that case was non-final and was on appeal with opening briefs due at the Ninth Circuit on October 26, 2020. Tragically, Plaintiff's counsel received word today that Mrs. Pehoviack passed away last week and, therefore, appellate review of her case will be precluded.

To recap, the Secretary moved to dismiss this case on October 7, 2020, while the Secretary moved to dismiss in other pending cases on the same grounds on June 12, 2020 (*Pehoviack v. Azar*, Case No. 20-cv-661 (C.D. Cal); June 26, 2020 (*Townsend v. Azar*, Case No. 20-cv-1210 (S.D.N.Y); August 6, 2020 (*Piekanski v. Azar*, Case No. 20-cv-687 (M.D. Pa.); August 10, 2020 (*Wilmoth v. Azar*, Case. No. 20-cv-120 (N.D. Miss.); and August 24, 2020 (*Komatsu v. Azar*, Case No. 20-cv-280 (C.D. Cal). So far, ruling have been obtained in only the *Piekanski* case (rejecting the Secretary's argument) and the *Komatsu* and *Pehoviack* cases (where the plaintiffs passed away before appeals could be completed).

Dated: October 20, 2020

Respectfully submitted,
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